



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an early end of the tenancy and an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord testified that she served the tenant with her application and Notice of Hearing to an adult who may reside in the house with the tenant. The landlord testifies she later spoke to the tenant who confirmed receipt of the hearing documents; however the tenant did not appear at the hearing. I accept the tenant has been sufficiently served for the purpose of this Act under Section 89 of the *Residential Tenancy Act (Act)*. The hearing proceeded in the tenants' absence.

The Landlord's agent was provided with opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present sworn oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Issue(s) to be Decided

- Is the Landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?
- Is the Landlord entitled to an Order of possession?

### Background and Evidence

Although no tenancy agreement was entered into evidence, the Landlord testified that this tenancy began on December 30, 2010, and that monthly rent is \$700.00 due on the first day of each month. The landlord also testified that the tenant paid a security deposit of \$350.00 on December 30, 2010.

The tenant occupies the basement unit of these residential premises.

In support of their application, the landlord submitted written statements from seven neighbors of the surrounding residential properties. The landlord testifies these letters were not solicited by her but were given to her by the neighbors of this tenant.

The supporting evidence of the landlord indicates that the tenant is creating disturbances which result in her neighbors expressing fear of the tenant and her guests and extreme police presence at the unit indicating illegal activity taking place with drunken behaviors, fighting, loud parties and other disrespectful activities.

The neighbors also complain that they do not feel safe due to the fighting and drunken people in and out of the house at all hours of the day and night.

Another neighbor states that she, as a single mother, is fearful for the safety of her children due to the constant noises and disturbances, which have included a bleeding partier banging on the neighbor's door for her to call the police, very late at night. This neighbor has witnessed the fighting and police being called.

Another neighbor states that they are fearful for the safety of their daughter due to the tenant's drunken parties, which results in fighting and arguing. These neighbors also state that they are unable to keep their windows open due to the constant noise.

Other neighbors submit that the police and ambulances are called at all hours of the day and night. These neighbors state that they have witnessed arguing, screaming, fighting,

knifing and fist fights from the drunken partiers. These neighbors also submit that the drunken partiers bang on their door asking them to use their phone to call the police and ambulances, and if they don't happen to answer the door, the partiers will kick in their door. These neighbors' also have children and are fearful of their safety.

Still another neighbor stated that she herself has had to call the police numerous times due to the rowdy behavior and threats to others by the tenant and/or her guests. This neighbor stated she witnessed the guests threaten other guests with knives and that she has been verbally assaulted by one of the guests with the use of a string of profane names being used towards her.

The landlord testified that she spoke with one of the police officers, who informed her that the police force has 56 files logged for this residential property and she has submitted one file number she was given by the police. However, despite her attempts, the landlord could not obtain any of the files due to privacy constraints.

The landlord also testified that one of the neighbours told her they had been threatened with a knife by either the tenant or one of her guests.

### Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit if the tenant or persons permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that

- (A) has caused or is likely to cause damage to the landlord's property,
- (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the landlord has provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenant or persons permitted on the property by the tenant have significantly interfered with or unreasonable disturbed the neighbours living in close proximity to the tenant. I find the landlord has provided sufficient evidence to show that the tenant has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of residential property. I further find the tenant or her visitors have engaged in an illegal activity which has caused the police to be called out on 56 occasions.

Due to the above I am satisfied, that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and allow the landlords application for an early end to the tenancy and therefore I find that the landlord is entitled to an order for possession. A formal order has been issued and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court. As the landlord has been successful with her application, I find that the landlord is entitled to recover the sum of \$50.00 for the filing fee paid and may keep **\$50.00** from the tenant'

security deposit. The reminder of the deposit must be either returned to the tenant or dealt with under s. 38 of the Act.

Conclusion

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court, should the Tenant fail to comply with this Order.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 22, 2011.

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Residential Tenancy Branch